

KIRTON McCONKIE
Darryl J. Lee, #4955
50 East South Temple
P.O. Box 45120
Salt Lake City, Utah 84145-0120
Telephone: (801) 328-3600
Facsimile: (801) 212-2151

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

| | | |
|-----------------------------------|---|----------------------------------|
| ALPENTAL ENERGY PARTNERS, LLC, |) | |
| a Utah limited liability company, |) | <i>NOTICE OF REMOVAL</i> |
| |) | |
| Plaintiff, |) | |
| v. |) | Civil No. 2:12-cv-01060-EJF |
| |) | |
| RCM INTERNATIONAL, LLC, |) | Magistrate Judge Evelyn J. Furse |
| |) | |
| Defendant. |) | |

Defendant RCM International, LLC (“RCM”), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby files this Notice of Removal of the above-described action to the United States District Court for the District of Utah, from the District Court of the Fourth Judicial District of the State of Utah, in and for Utah County, where the action is now pending and states:

1. The above-entitled action was filed in the District Court of the Fourth Judicial District of the State of Utah, in and for Utah County, on September 6, 2012.
2. RCM was served with the Complaint in this action on November 9, 2012.
3. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1441 in that it is being filed within thirty (30) days of the date on which RCM was served with the Summons and Complaint.

4. The District Court of the Fourth Judicial District, State of Utah, is located within the District of Utah.

5. By filing this Notice of Removal, RCM does not waive any available defenses, and nothing in this Notice should be construed as a general appearance in state court, nor as a waiver as to any objection RCM may have with respect to improper service, lack of jurisdiction, or improper venue, or any other legal or equitable defenses or objections to this action.

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

7. Plaintiff, Alpentel Energy Partners, LLC, is a Utah limited liability company, headquartered in Utah County, Utah.

8. RCM is the only named defendant in this action. RCM is a corporation organized and existing under the laws of the State of California, with its principal office located in Oakland, California.

9. Alpentel seeks damages in its Complaint of an amount not less than \$500,000.00.

10. Thirty (30) days have not elapsed since RCM was served with the Summons and Complaint and thus this notice of removal is timely under 28 U.S.C. § 1441.

11. Consequently, the United States District Court for the District of Utah has subject matter jurisdiction under 28 U.S.C. §§ 1332 and 1441, diversity of citizenship, an amount in controversy in excess of \$75,000.00, and based on removal of the action within thirty (30) days of being served with the action. Accordingly, RCM removes this case pursuant to 28 U.S.C. §§ 1332 and 1441(a).

12. RCM files with this notice a copy of all process, pleadings, and orders served upon it in this action as required by 28 U.S.C. § 1446(a). These documents are attached hereto as Exhibit A, which include the Summons, Complaint and state docket sheet.

13. RCM will give written notice of the filing of this notice to all adverse parties as required by 28 U.S.C. § 1446(d).

14. A copy of this notice will be filed with the clerk of the District Court of the Fourth Judicial District of the State of Utah, in and for Utah County, as required by 28 U.S.C. § 1446(d).

WHEREFORE, RCM requests that this action proceed in this Court as an action properly removed to it.

DATED this 14th day of November, 2012.

KIRTON McCONKIE

/s/ Darryl J. Lee

Darryl J. Lee

KIRTON McCONKIE

60 East South Temple, Suite 1800

Salt Lake City, Utah 84111

Telephone: (801) 328-3600

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of November, 2012, a true and correct copy of the foregoing *NOTICE OF REMOVAL* was served by U.S. mail, postage prepaid, to the following:

Barry N. Johnson
Daniel K. Brough
BENNETT TUELLER JOHNSON & DEERE
3165 East Millrock Drive, Suite 500
Salt Lake City, Utah 84121

/s/ Darryl J. Lee